

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Al & Barb Kopaska,
Petitioners-Appellants,

v.

Marion County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-63-0226
Parcel No. 23042-000-00

On June 16, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, Al and Barb Kopaska, requested a hearing and submitted evidence in support of their petition. They are self-represented and did not appear for the hearing. The Board of Review designated Attorney Christopher R. Pose, Connolly, O'Malley, Lillis, Hansen & Olson, L.L.P., Des Moines, as its legal representative. The Board of Review submitted its certified protest record as well as new evidence. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Al and Barb Kopaska, owners of property located at 137 Delft Drive, Pella, Iowa, appeal from the Marion County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story frame dwelling having 1939 square feet of living area and a full walk-out basement with 1000 square foot of finish. It was built in 2001 and also has an attached 656 square-foot garage, one basement garage stall, and a 960 square-foot detached garage. The property is improved by an open porch and wood deck. The property has a private septic system and is served by a rural water system. The dwelling is situated on a 0.459 acre site in the Dutchman's Landing subdivision.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$281,430, representing \$14,000 in land value and \$267,430 in dwelling value.

Kopaskas protested to the Board of Review on the grounds that (1) the assessment is not equitable as compared with assessments of other like property in the taxing jurisdiction under Iowa code section 441.37(1)(a); (2) the property is assessed for more than authorized by law under section 441.37(1)(b); (3) there is an error in the assessment under section 441.37(1)(d); and (4) there has been a downward change in the value since the last assessment under sections 441.37(1) and 447.35. The Kopaskas claim multiple errors including incorrect bathroom count, deck dimensions, and inaccurate measurements. Kopaskas claimed the correct market value of the property and a fair assessment was \$231,430, allocated \$14,000 to land value and \$217,430 in building value. The Board of Review granted the protest, in part, based on its correction of errors in the assessment. It reduced the assessment to \$279,310, allocated \$14,000 to land value and \$265,310 in building value.

Kopaskas then appealed to this Board. They marked the grounds of equity and error on the appeal form. In the relief sought section, they requested a reduction in value based on evidence they claim shows the property assessment should be lowered. As they had before the Board of Review, the Kopaskas essentially claimed the subject property was over-assessed and sought the same reduction in assessed value.

The certified record includes property record cards for three properties the Kopaskas considered similar to their property in the same subdivision. The first property located at 133 Holland Drive, sold in January 2007 for \$210,000 and was assessed for \$228,320. It has less living area, fewer bathrooms, has a lower quality grade, and has lower cost basement finish. Additionally, it was built in 1991 and has more physical depreciation than the subject. The property does have both attached and detached garages, similar to the subject property, and has a larger site. The second property, located at 125 Delft Drive, sold in April 2009, after the assessment date, for \$154,000 and is assessed at

\$169,590. It also has less living area, fewer bathrooms, has no basement finish, and only has an attached garage. It was built in 1992 and has more physical depreciation than Kopaskas' dwelling. The third property, located at 105 Delft Drive, Kopaskas listed had no recent transfers and is assessed at \$169,590. It has less living area, lower grade basement finish, and lower quality construction grade. It was built in 1997 and has more physical depreciation than the subject property. The significant differences between Kopaskas' property and the comparables they offer logically result in corresponding lower assessments on the comparable properties. They do not, however, support a lower assessment of Kopaskas' property.

The Board of Review submitted data on five 2008 sales in the same subdivision as the subject property. Sale prices ranged from \$162,000 to \$246,350 with a median sale price of \$224,000. The properties varied in living area, age, basement finish, garage stalls, and bathroom count. Three of the properties were given the same 5% economic obsolescence discount as the subject property. The assessments of these properties ranged from \$160,170 to \$252,400 with a median of \$171,920. Four of the five properties were assessed for less than their sale price. The price per square foot for the sales ranged from \$78.99 to \$161.55 with a median of \$146.21 per square foot. Kopaskas' property is assessed at \$136.83 per square foot which is well within the range of the comparable sales and below the median. The subject property had more living area than four of these properties and more basement finish, garage stalls, and bathroom count than all of them. The largest dwelling had no basement finish, a lower construction quality grade, had a 10% functional obsolescence discount, and was built in 1985 resulting in greater physical depreciation. The assessed value per square foot of the subject is well within the range of the comparable sales' per-square-foot price would appear to support the assessment.

The Board of Review also submitted an appraisal by Bonnie M. Gusland of Gusland Castek Appraisal Company which valued the property at \$268,000 as of August 26, 2009. Gusland reports

evidence of stabilized to declining prices throughout the Pella area especially in the subject's higher price range. She describes the subject's immediate area as comprised of medium age to new homes set on smaller acreage sites and consisting of 1.5 story, 2 story, splits, and ranches with a wide variety of values. Gusland noted some external obsolescence in Kopaskas' location due to the diverse property values in the area with favorability declining in recent years due to the competition from newer rural residential areas in Pella. Gusland used five sales in the Pella area. Four were 2009 sales and one was a 2008 sale. They all were located on small acreage sites, had finished walk-out basements, and two-car attached garages. In addition, two of the properties had a basement garage stall similar to the subject. Due to the limited sales data available for ranch homes in the immediate area, different design homes were considered influential and used by Gusland in the analysis. Unadjusted sale prices ranged from \$123.14 per square foot to \$197.30 per square foot with a median price of \$133.30 per square foot. Gusland adjusted for site size, view, age, room count, gross living area, basement finish, garage count, and other amenities. Adjusted sales prices ranged from \$258,000 to \$273,000 with a median of \$265,700.

Gusland testified at hearing that although her valuation date was August 26, 2009, she believed that was also the value on the assessment date due to the "flat-line" market in the area. She bases this assumption on her familiarity with home sales in the Pella area from 2007 to 2009 in the subject property's price range of \$200,000 to \$300,000. We find Gusland's testimony the most credible evidence of the subject property's fair market value.

Viewing all the evidence as a whole, we find the preponderance of the evidence supports Kopaskas' claim their property is over-assessed. Further, credible evidence was presented by the parties to determine the fair market value of the subject property as of the assessment date. While the Board of Review agreed with the appraisal valuation of \$268,000 at hearing, the assessor recommended a slightly lower amount for ease of processing. That value was \$267,590. Accordingly,

we find the fair market value of the subject property is \$267,590, representing \$14,000 in land value and \$253,590 in dwelling value for the January 1, 2009 assessment, which is supported by the Gusland appraisal.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

(Iowa 1995). The evidence, particularly the Gusland appraisal which we find the most credible valuation evidence, supported Kopaskas' assertion their property is over-assessed and demonstrates the fair market value of the property.

Therefore, we modify Kopaskas' property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$267,590, representing \$14,000 in land value and \$253,590 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Marion County Board of Review is modified to \$267,590, representing \$14,000 in land value and \$253,590 in dwelling value.

Dated this 12 day of July 2010.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Richard Stradley
Richard Stradley, Board Member

Karen Oberman
Karen Oberman, Board Chair

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| Certificate of Service | |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-13</u> , 20 <u>10</u> | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other |
| Signature | <u>[Signature]</u> |